INFORMATION BULLETIN

2007-9

November 23, 2007

Measures to support the manufacturing sector

This information bulletin is to make public the application details of the new refundable tax credit for manpower training in the manufacturing sector. It also describes the improvement to the capital tax credit regarding certain types of investment as well as the application details of a relief relating to the payment of instalments by manufacturing corporations.

For information regarding the matters dealt with in this information bulletin, contact the Secteur du droit fiscal et de la fiscalité at 418 691-2236.

The French and English versions of this bulletin are available on the ministère des Finances website at : www.finances.gouv.qc.ca

Paper copies are also available, on request, from the Direction des communications, at 418 528-9323.

Finances Québec

Measures to support the manufacturing sector

1. INTRODUCTION OF A REFUNDABLE TAX CREDIT FOR MANPOWER TRAINING IN THE MANUFACTURING SECTOR 3

2. IMPROVEMENT TO THE CAPITAL TAX CREDIT 10

3. RELIEF RELATING TO THE PAYMENT OF INSTALMENTS BY MANUFACTURING CORPORATIONS 11

1. INTRODUCTION OF A REFUNDABLE TAX CREDIT FOR MANPOWER TRAINING IN THE MANUFACTURING SECTOR

In recent years, Québec's manufacturing sector has experienced turbulence that has compromised its growth. An important factor that can contribute to its revival is undoubtedly better manpower training.

The Québec government has already announced measures to provide relief for the manufacturing sector. These measures include, in particular, the gradual elimination of the tax on capital, the increase in the capital tax credit and the updating of the *Act to foster the development of manpower training*, which has become the *Act to promote workforce skills development and recognition*, to support the efforts of companies in this sector to provide better training for their employees.

Continuing in this sense, a new temporary refundable tax credit for manpower training in the manufacturing sector will be introduced.

Briefly, this tax assistance will consist of a refundable tax credit of 30% that an eligible employer operating in Québec in the manufacturing sector may claim regarding certain training expenditures he incurs regarding his employees.

❑ Eligible employer

An "eligible employer", for a taxation year, means a corporation, other than an excluded corporation, or a partnership, that, during such year, has an establishment in Québec and carries on an eligible activity there.

In the case where the eligible employer is a partnership, eligibility for the tax credit will be determined with reference to the partnership, but the tax credit will be granted to each member of the partnership that is a corporation, other than an excluded corporation, for its taxation year in which the fiscal year of the partnership ends, based on its respective share of the income or loss of the partnership for such fiscal year.

■ Excluded corporation

An "excluded corporation", for a taxation year, means:

— a corporation exempt from tax for such year;

— a Crown corporation or a subsidiary wholly controlled by such corporation.

❑ Eligible activity

An "eligible activity" means an activity that relates to the manufacturing sector.

To that end, activities relating to the manufacturing sector will be the same as those included under codes 31, 32 and 33 of the North American Industry Classification System (NAICS codes).[1]

This eligibility test will be administered by Revenu Québec.

❑ Eligible employee

An "eligible employee" of an eligible employer, for a taxation year, means an employee of an establishment of such employer, located in Québec, other than an excluded employee, whose duties consist mainly, for such taxation year, in carrying out or supervising tasks attributable to an eligible activity.

This relative importance test will be administered by Revenu Québec.

■ Excluded employee

An "excluded employee" means:

— where the eligible employer is a corporation, a specified shareholder[2] of such corporation, or, where such corporation is a cooperative, a specified member[3] of such corporation;

— where the eligible employer is a partnership, a member of this partnership, a specified shareholder or a specified member, as the case may be, of this member, an employee not at arm's length with the member of such partnership, the specified shareholder or the specified member, as the case may be;

— an employee regarding whom it is reasonable to consider that one of the reasons for which he works for the eligible employer is to enable the latter to claim the tax credit in his regard;

---

1 A description of the NAICS codes is available on the Statistics Canada website: http://www.statcan.ca

2 Briefly, a "specified shareholder" of a corporation, in a taxation year, is, wherever this expression is used in this information bulletin, a taxpayer who is the owner, directly or indirectly, at any time of the year, of at least 10% of the issued shares of any class of the capital stock of the corporation or of any other corporation related to it.

3 Briefly, a "specified member" of a corporation that is a cooperative, in a taxation year, is, wherever this expression is used in this information bulletin, a member having, directly or indirectly, at any time of the year, at least 10% of the votes at a meeting of the members of the cooperative.

— an employee regarding whom it is reasonable to consider that the employment conditions with the eligible employer have been modified chiefly for the purpose of enabling the eligible employer either to claim the tax credit in his regard or to increase the tax credit in his regard.

❑ Eligible training

"Eligible training" means a course relating to an eligible business of an eligible employer in which an eligible employee of such employer is enrolled and that is given by an eligible trainer under a contract concluded between the eligible employer and the trainer.

■ Exclusions

For greater clarity, eligible training does not include:

— a convention, symposium, seminar, conference or other similar activity;

— a course required by a professional order governed by the professional code and intended for a member of such order or a person in the process of becoming such a member;

— a course required by an employer or labour association, or a similar association, and intended for a member of such association or a person in the process of becoming such a member;

— a course that is taken because the employer must comply with a law or regulation;

— a course whose main objective is to increase the employee's skills in negotiating or reaching contracts whose objective is the sale of a good or the delivery of a service.

❑ Eligible trainer

An "eligible trainer" means a recognized educational institution or a certified trainer.

■ Recognized educational institution

A "recognized educational institution" means an educational institution that is one:

— either at the secondary or college level under the ministère de l'Éducation, du Loisir et du Sport;

— or certified for the purposes of the grant under section 77 of the *Act respecting private education* (R.S.Q., c. E-9.1);

— or mentioned on the list drawn up by the Minister of Education, Recreation and Sports under any of paragraphs 1 to 3 of the first paragraph of section 56 of the *Act respecting financial assistance for education expenses* (R.S.Q., c. A-13.3);

— or owned by a person who holds a license issued by the Minister of Education, Recreation and Sports under section 12 of the *Act respecting private education*, provided such institution offers a vocational training or vocational education program covered by chapter 1 of such Act.

■ Certified trainer

A "certified trainer" means a trainer or training organization certified by the Minister of Employment and Social Solidarity under the *Act to promote workforce skills development and recognition* or a regulation adopted under such Act.

■ Exclusions

An eligible trainer regarding an eligible employee does not include:

— an employee of the eligible employer;

— a specified shareholder, a specified member or a member, as the case may be, of the eligible employer;

— an employee, a specified shareholder or a specified member of a person with whom the eligible employer is not at arm's length;

— an employee or a member of a partnership with which the eligible employer is not at arm's length;

— an employee, a specified shareholder or a specified member of a person that is a specified shareholder, a specified member or a member, as the case may be, of the eligible employer;

— an employee, a specified shareholder or a specified member of a person that is a specified shareholder, a specified member or a member, as the case may be, of a person with whom the eligible employer is not at arm's length;

— a member of a partnership that is a specified shareholder, a specified member or a member, as the case may be, of the eligible employer or of a person with whom the eligible employer is not at arm's length;

— a specified shareholder or a specified member of a corporation that carries on a personal services business[4] or a member of a partnership that carries on such a business, or an employee of such corporation or partnership, where a shareholder or member, as the case may be, is both a specified shareholder or a specified member of the corporation or a member of the partnership, as the case may be, and:

  — either an employee, a specified shareholder or a specified member of the eligible employer or of a person with whom the eligible employer is not at arm's length;

  — or an employee, a specified shareholder or a specified member of a person or a member of a partnership that is a specified shareholder, a specified member or a member, as the case may be, of the eligible employer or of a person with whom the eligible employer is not at arm's length.

❑ Details of calculation of the tax credit

An eligible employer may claim a refundable tax credit, for a taxation year, equal, for each eligible employee, to 30% of eligible training expenditures incurred regarding such eligible employee during such taxation year.

❑ Eligible training expenditure

The "eligible training expenditure" of an eligible employer regarding eligible training, for a taxation year, is equal, subject to the clarifications made below, to the total of the following amounts he incurs regarding such year:

— an amount equal to the cost of the eligible training in which an eligible employee is enrolled;

— an amount equal to the lesser of the two following amounts:

  — the wage or salary calculated according to part I of the *Taxation Act* paid to an eligible employee and attributable to the period during which he attended the eligible training;

  — an amount equal to double the cost of the eligible training in which an eligible employee is enrolled.

---

4 A "personal services corporation" means a service business that a corporation carries on in a taxation year where an employee who supplies services on behalf of the corporation ("incorporated employee"), or a person related to an incorporated employee, is a specified shareholder of the corporation and that such incorporated employee could reasonably be likened to an employee of the person or the partnership to which he supplied the services, were it not for the existence of the corporation, unless the corporation employs throughout the year in the business more than five full-time employees or if the amount received or to be received by the corporation in the year for the services supplied is paid or to be paid by a corporation to which it is associated in the year.

For greater clarity, the cost of eligible training does not include travel, meal or lodging expenses incurred regarding the eligible employee to enable him to attend the training.

Lastly, the expenditures must have been paid at the time the claim for the tax credit is filed with Revenu Québec.

■ *Act to promote workforce skills development and recognition*

In the case of an eligible employer to which the *Act to promote workforce skills development and recognition*[5] applies, the eligible training expenditure for a taxation year or a fiscal year, as the case may be, is equal to the lesser of the following two amounts:

— the eligible training expenditure otherwise determined for the taxation year or the fiscal year, as the case may be;

— the excess of:

  — the eligible training expenditure determined for the purposes of the *Act to promote workforce skills development and recognition* for a calendar year ending in the taxation year or fiscal year, as the case may be

  over

  — the portion of such expenditure that the eligible employer must allocate to training or pay as a contribution to the Fonds de développement et de reconnaissance des compétences de la main-d'œuvre for such calendar year under the *Act to promote workforce skills development and recognition*.[6]

■ Contribution rule

Where, in the course of eligible training, an eligible employer obtains, is entitled to obtain or may reasonably expect to obtain from an eligible trainer or from any other person, a contribution, such employer may not claim a tax credit regarding the portion of his eligible training expenditure corresponding to such contribution.

---

5 This act requires an employer whose payroll exceeds $1 million regarding a calendar year to participate, for such year, in the development of manpower skills by allocating an amount representing at least 1% of his payroll to training expenditures. If, for a year, the employer does not satisfy this requirement, he must pay a contribution to the Fonds de développement et de reconnaissance des compétences de la main-d'œuvre equal to the difference between the amount of the minimum participation required of him and the amount actually allocated to training expenditures.

6 In the case of an eligible employer exempt, for a year, under the *Act to promote workforce skills development and recognition* or a regulation adopted under such act, from payment of an amount representing at least 1% of his payroll and from a contribution to the Fonds de développement et de reconnaissance des compétences de la main-d'œuvre, the eligible training expenditure must be calculated as if the eligible employer were not exempt.

In this context, a contribution means:

— a contribution in the form of either a cash payment, the transfer of ownership of property, the assignment of the use of or right to use property, or under any other form or any other way;

— property that the Minister of Revenue designates as being a contribution.

For example, the eligible training expenditure of an employer shall be reduced by the consideration paid by an eligible trainer for the employer to make, in the course of the eligible training, a room, equipment or any other good or service available to him.

■ Government or non-government assistance

The total amount of eligible training expenditure incurred regarding an eligible employee by an eligible employer must be reduced by the amount of any government assistance, any non-government assistance and any benefit or advantage, according to the usual rules.

❑ Other application details

■ Special tax

If a training expenditure of an eligible employer for which a tax credit has been granted is refunded to the eligible employer, the tax credit thus granted will be recaptured by means of a special tax.

■ Instalment payments

This tax credit may, according to the usual rules, be applied against instalment payments.

■ Application

An employer that wishes to claim this tax credit, for a taxation year, must enclose with his tax return, for such year, the form prescribed by the Minister of Revenue of Québec.

❑ Period of eligibility for the tax credit

The tax credit will apply regarding an eligible training expenditure incurred:

— after the date of publication of this information bulletin; and

— before January 1, 2012.

In addition, the eligible training expenditure must relate to eligible training beginning:

— after the date of publication of this information bulletin; and

— before January 1, 2012.

However, the tax credit will not apply regarding an eligible training expenditure incurred in relation to training offered in accordance with an obligation contracted no later than the date of publication of this information bulletin.

2. IMPROVEMENT TO THE CAPITAL TAX CREDIT

A capital tax credit was introduced in the April 21, 2005 Budget Speech, enabling corporations that make certain types of investment to reduce their capital tax burden.

Briefly, the capital tax credit enables a corporation, other than a financial institution, that makes an eligible investment during a taxation year, to claim a non-refundable capital tax credit, for such taxation year, equal to 10% of the amount of such eligible investment. [7]

A corporation can claim such capital tax credit, for a taxation year, up to its tax on capital otherwise payable for such taxation year. Where the capital tax credit exceeds the tax on capital otherwise payable by the corporation for the taxation year, such excess can be carried over to subsequent taxation years and applied by the corporation against its tax on capital payable for such years.

Eligible investments for the purposes of the capital tax credit are manufacturing and processing equipment, i.e. assets of class 43 of schedule B of the *Regulation respecting the Taxation Act*. [8]

As part of the March 23, 2006 Budget Speech, the capital tax credit was enhanced, for certain investments in the forest sector, by raising the rate to 15%.

Québec's manufacturing sector faces intensifying global competition. In this context, investment in machinery and equipment is essential to improving business competitiveness.

Accordingly, to sustain and accelerate the efforts of companies to modernize their machinery and equipment, the basic rate of the capital tax credit will be raised to 15% of the amount of eligible investments, i.e. the same rate as that applicable for certain investments in the forest sector.

---

7 The rate of the capital tax credit, initially set at 5%, was raised to 10% in the February 20, 2007 Budget Speech regarding investments made after that date.

8 However, these assets must satisfy certain conditions to qualify as eligible investments, among others the requirement that they be used within a reasonable time, for a period of at least 730 days, solely in Québec and mainly in the course of carrying on a business. Similarly, the assets must be new.

The assets covered by the increase in the rate of the capital tax credit to 15% are assets of class 43 of schedule B of the *Regulation respecting the Taxation Act*[9] acquired after the day of publication of this information bulletin, unless:

— they are acquired pursuant to a written obligation contracted no later than the day of publication of this information bulletin; or

— the construction of these assets, by the taxpayer or on his behalf, was already underway the day of publication of this information bulletin.

For greater clarity, and subject to the existing transition rules, the assets that will otherwise be eligible investments acquired pursuant to a written obligation contracted no later than the day of publication of this information bulletin or whose construction, by the taxpayer or on his behalf, was underway the day of publication of this information bulletin, will be eligible investments for the purposes of the capital tax credit at the rate of 10%.

However, where such assets are acquired pursuant to a written obligation contracted no later than February 20, 2007 or whose construction, by the taxpayer or on his behalf, was underway on February 20, 2007, the assets will be eligible investments for the purposes of the capital tax credit at the rate of 5%.

Moreover, it was announced as part of the May 24, 2007 Budget Speech that the tax on capital will be eliminated on January 1, 2011. Consequently, eligible investments made during a taxation year beginning after December 31, 2010 will no longer give rise to a non-refundable capital tax credit.

For greater clarity, and taking into account the details of the carry-over of the balance of the capital tax credit at the end of a taxation year, any unused balance of the capital tax credit at the end of a taxation year including December 31, 2010 will be cancelled because of the elimination of the tax on capital.

3. RELIEF RELATING TO THE PAYMENT OF INSTALMENTS BY MANUFACTURING CORPORATIONS

Under the current tax legislation, corporations subject to Québec tax for a taxation year are required to pay, no later than the last day of each month of such taxation year,[10] instalments that generally correspond to 1/12 of their estimated income tax and tax on capital for such year. Furthermore, they must pay the balance of their estimated income tax and tax on capital for such taxation year no later than two months after the end of such year.

---

9 *Supra*, note 8.

10 However, it was announced in the May 24, 2007 Budget Speech that a Canadian-controlled private corporation may, under certain conditions, change the frequency of its instalments from monthly to quarterly regarding a taxation year beginning after 2007.

Should a corporation fail to make its instalment payments on the stipulated dates and pay the balance of its estimated income tax and tax on capital no later than two months after the end of its taxation year, interest is imposed.

The manufacturing sector currently faces a number of challenges. The rise of the Canadian dollar compared with the American dollar, competition from emerging economies and fluctuations in the price of energy and merchandise are applying significant pressure on this sector and causing liquidity problems for many companies.

Accordingly, to improve the cash position of manufacturing corporations, relief will be granted regarding the payment of instalments by such corporations for calendar year 2008.

Briefly, a manufacturing corporation's instalments of income tax and tax on capital calculated regarding the months of January to December 2008 may be paid at the same time as the payment of the balance of its income tax and tax on capital, i.e. no later than two months after the end of the taxation year to which such instalments relate.

For example, a corporation whose taxation year coincides with calendar year 2008 may pay its instalments for the months of January to December 2008 at the same time as the payment of the balance of its income tax and tax on capital, i.e. no later than February 28, 2009. Moreover, if the taxation year of the corporation ends on June 30, 2008, it may pay the instalments relating to the months of January to June 2008 no later than August 31, 2008, and the instalments for the months of July to December 2008, relating to the taxation year ending on June 30, 2009, no later than August 31, 2009.

For a manufacturing corporation to benefit from the relief relating to the payment of instalments, its paid-up capital, calculated on a consolidated basis, must not exceed $75 million.

However, in view of the particular situation affecting the forest industry, a manufacturing corporation operating in this industry and whose paid-up capital, calculated on a consolidated basis, exceeds $75 million may still benefit from the relief relating to the payment of instalments, where such corporation is considered to operate mainly in the forest industry.

❑ Paid-up capital calculated on a consolidated basis

For a manufacturing corporation to benefit from the relief relating to the payment of instalments, for a given taxation year – whether such given taxation year coincides with calendar year 2008 or is partially included in such calendar year – its paid-up capital, calculated on a consolidated basis, must not exceed $75 million for the taxation year preceding the given taxation year.

More specifically, the paid-up capital referred to is the one calculated for the purposes of the tax on capital. It must be determined on a world basis, considering the paid-up capital attributable to associated corporations, including that of associated corporations not subject to the *Taxation Act*.

Moreover, where a manufacturing corporation is associated with one or more other corporations during a given taxation year – covered by the relief –, its paid-up capital, calculated on a consolidated basis, corresponds to the total of the paid-up capital of such corporation determined for the taxation year preceding the given taxation year and the paid-up capital of the corporations to which the manufacturing corporation is associated, during the given taxation year, determined for their last taxation year ended in the twelve months preceding the beginning of the given taxation year. Where one of the other corporations is in its first fiscal year, its paid-up capital is then determined on the basis of its opening balance sheet prepared in accordance with generally accepted accounting principles.

❑ Manufacturing corporation

A manufacturing corporation means a corporation whose activities as a whole consist mainly in carrying on a manufacturing or processing business. In this regard, a manufacturing or processing business means a business whose activities are included under codes 31 to 33 of the North American Industry Classification System (NAICS codes). [11]

NAICS codes cover establishments whose chief activity consists in carrying out certain specific activities. This notion of establishment whose chief activity consists in carrying out certain specific activities will not be applied to determine whether a corporation's activities, taken as a whole, consist chiefly of manufacturing or processing.

The gross income of the corporation will be the criterion considered in determining whether its activities, taken as a whole, consist mainly in carrying on a manufacturing or processing business. Accordingly, a corporation will be considered a manufacturing corporation where the gross income from its manufacturing or processing activities (gross manufacturing income) represents more than 50% of its total gross income, for the taxation year preceding the one covered by the relief.

❑ Manufacturing corporation operating chiefly in the forest industry

As mentioned above, a manufacturing corporation may benefit from the relief relating to the payment of instalments, for a given taxation year, even though its paid-up capital, calculated on a consolidated basis, exceeds $75 million for the taxation year preceding the given taxation year, where it is considered to operate chiefly in the forest industry.

Accordingly, a manufacturing corporation will be considered to operate chiefly in the forest industry where its activities concern primary processing forest products and the gross income from such activities, for the taxation year preceding the given taxation year, represents more than 50% of its total gross income for such given taxation year.

11 A description of the NAICS codes is available on the Statistics Canada website: http://www.statcan.ca

In this regard, sawmill, wood treatment, veneer, plywood and reconstituted wood products manufacturing activities, as well as the activities of pulp, paper and cardboard plants, i.e. the activities included under codes 3211, 3212 (excluding sub-code 321215) and 3221 of the North American Industry Classification System, are considered activities concerning primary processing forest products.[12]

NAICS codes cover establishments whose chief activity consists in carrying out certain specific activities. This notion of establishment whose chief activity consists in carrying out certain specific activities will not be applied to determine whether a corporation operates chiefly in the forest industry. As mentioned above, this qualification will be based on the corporation's gross income.

❑ Other application details

The tax legislation stipulates the imposition of interest where a corporation fails to make, for a taxation year, its instalment payments on the stipulated dates and to pay the balance of its estimated income tax and tax on capital no later than two months after the end of its taxation year. The corporation thus assumes the risks associated with insufficient instalment payments, whether caused by an underestimation of income tax or tax on capital, or an overestimation of items applied to reduce such instalments.

In this context, the corporation that chooses to avail itself of the relief relating to instalment payments, on the basis that it is a manufacturing corporation or a manufacturing corporation operating chiefly in the forest industry, must assume the risk associated with this determination should it transpire that the conditions for obtaining such relief are not satisfied.

12 These activities are identical to those used to qualify class 43 assets as eligible investments for the purposes of the capital tax credit regarding certain investments in the forest sector. The list of these activities was given as an appendix to the Additional Information on the Budgetary Measures, 2006-2007.